

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

MICHAEL GARROW,

Petitioner,

vs.

BRIAN E. WILLIAMS, SR., *et al.*,

Respondents.

Case No. 2:14-cv-02143-RFB-VCF

**ORDER**

Michael Garrow (“Petitioner”), a Nevada prisoner, has filed a counseled petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (ECF No. 1-1). The Court has reviewed the petition pursuant to Habeas Rule 4, and the petition shall be served upon the respondents.

A petition for federal habeas corpus should include all claims for relief of which Petitioner is aware. If Petitioner fails to include such a claim in his petition, he may be forever barred from seeking federal habeas relief upon that claim. See 28 U.S.C. §2254(b) (successive petitions). If Petitioner is aware of any claim not included in his petition, he should notify the Court of that as soon as possible, perhaps by means of a motion to amend his petition to add the claim.

**IT THEREFORE IS ORDERED** that the Clerk shall **ELECTRONICALLY SERVE** the petition (ECF No. 1) on the respondents.

1           **IT FURTHER IS ORDERED** that respondents shall file a response to the petition, including  
2 potentially by motion to dismiss, within **ninety (90) days** of service of the petition, with any requests  
3 for relief by Petitioner by motion otherwise being subject to the normal briefing schedule under the local  
4 rules. **Any response filed shall comply with the remaining provisions below, which are entered**  
5 **pursuant to Habeas Rule 4.**

6           **IT FURTHER IS ORDERED** that any procedural defenses raised by respondents in this case  
7 shall be raised together in a single consolidated motion to dismiss. In other words, the Court does not  
8 wish to address any procedural defenses raised herein either in *seriatum* fashion in multiple successive  
9 motions to dismiss or embedded in the answer. Procedural defenses omitted from such motion to  
10 dismiss will be subject to potential waiver. Respondents shall not file a response in this case that  
11 consolidates their procedural defenses, if any, with their response on the merits, except pursuant to 28  
12 U.S.C. § 2254(b)(2) as to any unexhausted claims clearly lacking merit. If respondents do seek  
13 dismissal of unexhausted claims under § 2254(b)(2): (a) they shall do so within the single motion to  
14 dismiss **not** in the answer; and (b) they shall specifically direct their argument to the standard for  
15 dismissal under § 2254(b)(2) set forth in Cassett v. Stewart, 406 F.3d 614, 623-24 (9th Cir. 2005). In  
16 short, no procedural defenses, including exhaustion, shall be included with the merits in an answer. All  
17 procedural defenses, including exhaustion, instead must be raised by motion to dismiss.

18           **IT FURTHER IS ORDERED** that, in any answer filed on the merits, respondents shall  
19 specifically cite to and address the applicable state court written decision and state court record  
20 materials, if any, regarding each claim within the response as to that claim.

21           **IT FURTHER IS ORDERED** that Petitioner shall have **thirty (30) days** from service of the  
22 answer, motion to dismiss, or other response to file a reply or opposition, with any other requests for  
23 relief by respondents by motion otherwise being subject to the normal briefing schedule under the local  
24 rules.  
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1       **IT FURTHER IS ORDERED** that any additional state court record exhibits filed herein by  
2 either Petitioner or respondents shall be filed with a separate index of exhibits identifying the exhibits  
3 by number. The CM/ECF attachments that are filed further shall be identified by the number or  
4 numbers of the exhibits in the attachment. The hard copy of any additional state court record exhibits  
5 shall be forwarded – for this case – to the staff attorneys in **Reno**.

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7       **DATED** this 2nd day of March, 2015.

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**RICHARD F. BOULWARE, II**  
**UNITED STATES DISTRICT JUDGE**